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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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07/28/2000

Thomas J. Herder

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MCI, INC

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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,558

Applicant(s)

HERDER, THOMAS J.

Examiner

Christopher J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/23/2005 have been fully considered but they are not persuasive.

Applicant argues in reference to claim 1 that Buffam US 6,185,316 in view Kanevsky US 5,897,616 does not teach randomly selecting one of a plurality of questions corresponding to a plurality of biometric sample received from the user. The applicant argues that Buffam does not teach random questions, and that Kanevsky teaches random questions but does not teach them corresponding to a plurality of biometric samples.

The examiner argues that the rejection relies on Kanevsky, Buffam can be user for the biometric authentication, samples, including a voice pattern according to a spoken phrase, see column 18 line 58 to column 19 line 2. With the rejection relying on Kanevsky for teaching random questions which includes authentication and biometric samples, see column 3 lines 20-62. However the examiner would also argue that Kanevsky does teach determining if a biometric sample corresponds to the randomly selected question.

Kanevsky teaches both analysts of the voice sample for correctness of the answer and matching the voice to previously sampled voice data.

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Applicant argues in reference to claim 12 that Chmaytelli US 6,542,729 does not teach determining if a fraudulent transaction is being attempted and denying access wherein the biometric sample does not match an entry stored in a biometric profile database.

The examiner argues that Chmaytelli does teach claim 12 see column 8 lines 6-35.

Chmaytelli does not explicitly teach a biometric profile, and instead relies on Sawyer US 6,324,271 for such teachings. However it is clear from Chmaytelli, that in order for the biometric voice recognition to work, previous samples must have been taken and stored in a user database.

Applicant argues in reference to claim 16 that Sawyer, Kanevsky and Weiss fail to teach randomly selecting one of a plurality of questions corresponding to a plurality of biometric samples received from the user.

The examiner argues that Kanevsky does teach determining if a biometric sample corresponds to the randomly selected question. Kanevsky teaches both analysis of the voice sample for correctness of the answer, and matching the voice to previously sampled voice data.

The previous rejection is repeated below, for the applicant's convenience:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616.

As per claims 1, and 2, Buffam teaches a method of validating a user for a transaction by using a transaction card. Buffam teaches configuring a biometric profile for a user including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches associating said biometric profile with indicia, (Col 16 line 65- Col 17 line 8). Buffam teaches biometrically interrogating said user when said transaction is attempted, (Col 18 lines 65- Col 19 line 2). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9).

Buffam teaches biometrics using voice recognition, including a voice pattern according to a spoken phrase (Col 18 lines 39-44). Buffam does not teach random questions.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). Kanevsky teaches a spoken word representative of an answer to the random questions, (Col 3 line 34). Kanevsky teaches verifying the captured spoken biometric against the correct answer in a database, (Col 3 line 36). It would have been obvious to use the random questions of Kanevsky with the voice recognition of Buffam because random questions ensure that a fraudulent user will not know the answers to gain access.

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As per claim 3, Buffam teaches inputting an indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

As per claim 5, Buffam teaches configuring a biometric profile manually, (Col 18 lines 23-27).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616 in view of Fujimoto US 5,893,057.

The previous Buffam-Kanevsky combination teaches biometric authentication with a Pin. Buffam-Kanevsky fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

It would have been obvious to one of ordinary skill in the art to use the alternative authentication of Fujimoto with Buffam-Kanevsky to provide an alternate method of authentication in case a users biometrics are not correct, such as a, hoarse voice, or cut finger.

Claims 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616 in view of Glaze US 6,320,974.

As per claims 6, and 7 The previous Buffam-Kanevsky teaches configuring a biometric profile. Buffam-Kanevsky fails to teach updating said profile.

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Glaze teaches automatically updating and configuring a biometric profile in a database of biometric profiles, (Col 4 lines 30-47).

It would have been obvious to one of ordinary skill in the art to use the Glaze's updating profiles with Buffam-Kanevsky's biometric profiles because people's biometric signatures change over time.

Claims 8, 9, and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271.

As per claim 8, Buffam teaches configuring a biometric profile for a user including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches biometrics using voice recognition, (Col 18 lines 39-44). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9). Buffam teaches inputting indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

Buffam fails to teach PSTN.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). Kanevsky fails to teach PSTN.

Sawyer teaches a calling card in use with a PIN and biometric authentication for use over a PSTN network, (Col 4 lines 22-30, Col 7 lines 45-51).

It would be obvious to use the PSTN because it is the most widely used means for telephonic communication.

As per claim 9 the previous Buffam-Kanevsky combination fails to teach DTMF.

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Sawyer teaches use of DTMF to answer random questions, (Col 7 line 53-60).

As per claim 10, Buffam-Kanevsky teaches inputting indicia (PIN) after the biometric response has been authenticated, (Buffet Col 17 lines 1-10).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271 in view of Fujimoto US 5,893,057

As per claim 11, Buffam-Kanevsky teaches biometric authentication with a Pin. Buffam-Kanevsky fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Sawyer US 6,324,271 in view of Chmaytelli US 6,542,729 in view of Weiss US 4,998,279

As per claims 12, Sawyer teaches a network operable with a terminal in association with a transaction card, (Col 4 lines 20-24). Sawyer teaches a controller to handle network queries, (Col 6 lines 8-14). Sawyer teaches submitting a biometric profile for authentication, (Col 7 lines 45-52). Sawyer does not teach submitting the biometric

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authentication over a network. Sawyer does not teach determining if a fraudulent action is being attempted, and if so, to biometrically interrogate the user.

Chmaytelli teaches an authentication method wherein if a user fails to enter a password correctly the system will lock. Chmaytelli teaches that the user may unlock the system by using a voice recognition procedure, (Col 8 lines 6-20).

Weiss teaches submitting biometric indicia over a telephone network to a store with biometric profiles for authentication.

It would have been obvious to one skilled in the art to use the network and biometric store of Weiss with the biometric authentication of Sawyer, so that the biometric profiles would be in a secure location.

As per claim 13, Buffam-Kanevsky combination fails to teach a calling card. Sawyer teaches the transaction to be placing a calling card call, or accessing an account, (Fig 1, Col 8 lines 64).

As per claim 14, Buffam-Kanevsky combination teaches using audio biometrics. Sawyer teaches using a voiceprint, (Col 7 line 50).

As per claim 15 Buffam-Kanevsky combination fails to teach using a fingerprint. Sawyer teaches using a fingerprint, (Col 7 line 50).

Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer US 6,324,271 in view of Kanevsky US 5,897,616 in view of Weiss US 4,998,279.

As per claims 16, Sawyer teaches a network operable with a terminal in association with a transaction card, (Col 4 lines 20-24). Sawyer teaches a controller to handle network queries, (Col 6 lines 8-14). Sawyer teaches submitting a biometric profile for authentication, (Col 7 lines 45-52). Sawyer does not teach submitting the biometric authentication over a network. Sawyer does not teach biometric samples related to questions.

Kanevsky teaches receiving spoken answers in response to submitted questions, and verifying the user and the answers via a biometric database, (Col 3 lines 26-44).

Weiss teaches submitting biometric indicia over a telephone network to a store with biometric profiles for authentication.

It would have been obvious to one skilled in the art to use the network and biometric store of Weiss with the biometric authentication of Sawyer, so that the biometric profiles would be in a secure location.

As per claim 17, Sawyer teaches the biometric is a fingerprint, (Col 7 line 50).

As per claim 18, Sawyer teaches the biometric is voice, (Col 7 line 50).

As per claim 19, Sawyer teaches an automated response unit, (Col 7 lines 30-37).

As per claim 20, Sawyer teaches a wired phone, (Col 5 lines 50-52).

As per claim 21, Sawyer teaches an Internet phone, (Col 56-58).

As per claim 22, Sawyer teaches a wireless communication device, (Col 5 line 55).

Conclusion

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

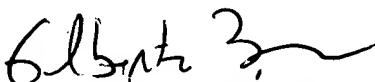
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

2/14/06

Handwritten signature of Christopher J. Brown, consisting of the letters 'CJB' in a stylized, cursive script.Handwritten signature of Gilberto Barron Jr., featuring a stylized 'G' and 'B' followed by a flourish.

GILBERTO BARRON JR.
SUPERVISORY PATENT EXAMINER
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